

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on March 5, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 135, SB 52, SB 108,
3/2/2001

HEARING ON SB 135

Sponsor: SEN. MIGNON WATERMAN, SD 26, Helena

Proponents: Bonnie Adee, Mental Health Ombudsman
Gene Haire, Ex. Dir., Mental Disabilities Board of
Visitors
Erin McGowan, Mt. Council of Community Mental Health
Centers
Sami Butler, Mt. Nurses' Assn.
Al Davis, Mental Health Assn. of Montana

Opponents: None

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, Helena, said this bill, requested by the Legislative Finance Committee, generally revises the statutes on the Mental Health Ombudsman. It moves the Ombudsman's duties to the office of the Governor. It had been attached to the Mental Disabilities Board of Visitors, which is attached to the Governor's office, and it was a little awkward to have someone attached to an agency that was already attached to the Governor's office. So, the Ombudsman will report directly to the Governor and will provide an annual report to the Governor and to the Legislature, which may include recommendations on the mental health system. They have found the Ombudsman to be a great listening tool, providing valuable information to the Legislative Finance Committee and to the Oversight Advisory Council in the last two years, so they wanted to clarify in statute that the Ombudsman could make recommendations on improvements to the system. Also, the Ombudsman can represent individuals in regards to mental health needs. Before, the language had said consumers, rather than individuals, and the committee felt there are sometimes people who feel they need services and can't get them, so they wanted to clarify that language. It also includes people who are transitioning from the public system to the private system. The Ombudsman may not provide legal advocacy, and the bill clarifies that, but they do have subpoena powers, if needed, in investigations. The names of individuals receiving assistance are confidential, and in section 2, the bill clarifies that their records are confidential. **{Tape : 1; Side : A; Approx. Time Counter : 0 - 2.6}**

Proponents' Testimony:

Bonnie Adee, Mental Health Ombudsman, said the Ombudsman office was created by the last legislature. During the last 18 months of experience, several things came up that the bill will address and correct. Managed care is not currently part of the state's mental health system, so it's been an awkward part of the title of her office and she wants to drop that, as well as the reference to the contractor. Those were reflective of the time at which the Ombudsman's office was created. The office would be attached directly to the Governor's office. In the beginning of the office, it made sense for it to be attached to the Mental Disabilities Board of Visitors, and they got a lot of assistance and support from that board. Currently they are located with the board, and that would not change. It is important that the Ombudsman's office be perceived as a neutral, independent office. Attaching it directly to the Governor's office clarifies that perception. There is a change in the mandate to a broader mandate than the original one, including those that may be in need of public mental health or those who are no longer eligible for public mental health. With a broader mandate, she will be better able to inform both the executive branch and the legislative branch about populations that we may be missing in the public mental health system. She hears from those people now and doesn't turn them away, but this bill will clarify that that is part of our understanding and mandate for the office. She thinks it is important to clarify that the Ombudsman office is not a place for legal advocacy. She hears from consumers and family members seeking legal advocacy, and she refers them to public defenders, legal aid and the Montana Advocacy program. She is not an attorney and has no attorneys on staff, and doesn't feel that is the purpose of this office. The bill would make it very clear for the public that that's the case. The bill requests an additional investigative tool, in the form of subpoena powers. She has in the past 18 months had one situation where, during the course of an investigation, she needed records from a provider and that was refused to her. That slowed down the investigative process. She believes that having the subpoena powers, perhaps without ever having to use them, would make sure that any materials necessary to investigate a situation would be available to the Ombudsman office. The bill clarifies that the office has access to legal support. Currently it's not clear where the office's legal support might come from, such as the Board of Visitors or the Governor's office, who already have many demands upon them. The Ombudsman is not likely to get into some kind of legal controversy on behalf of a consumer. By having access to legal counsel, it will keep the Ombudsman away from legal matters which are beyond the scope of the office. The bill would protect Ombudsman documents. She has been asked by reporters if the names of individuals helped by the office are public and she thinks it is important to clarify that they are not public documents and that confidentiality of persons using the office is protected. Access to information that's necessary to pursue an investigation of the

office would sometimes facilitate their ability to address issues. Currently they always ask for release of information if they need to access confidential information on behalf of the consumer. They ask the consumer themselves. That practice would not change with this clarification, but what it would allow them to do is, once they know it is the desire of a consumer that they access the information, it would allow them to do so without going through the process of actually procuring the document. Many folks they deal with don't have faxes or post office boxes they go to regularly, so sometimes the turn around to get a release of information back can be several days. This would accelerate the ability to access that kind of information. She presented the annual report, quarterly reports for this year, and a proposed organization chart. **EXHIBIT(huh50a01) EXHIBIT(huh50a02) EXHIBIT(huh50a03) {Tape : 1; Side : A; Approx. Time Counter : 2.6 - 10}**

Gene Haire, Ex. Dir., Mental Disabilities Board of Visitors, said they support the bill.

Erin McGowan, Mt. Council of Community Mental Health Centers, said they support the bill, and she also was expressing support on behalf of **Sami Butler, Mt. Nurses' Assn.**

Al Davis, Mental Health Assn. of Montana, said they support the bill. **{Tape : 1; Side : A; Approx. Time Counter : 10 - 15.1}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Schmidt complimented **Ms. Adee** on all the reports she had given to the interim committee and how much she had helped people get services and understand services. She believes the position has been a valuable addition.

Rep. Esp asked **Ms. Adee** why she thought subpoena power was a necessary part of this process. **Ms. Adee** said subpoena powers are very common to ombudsman offices. At first she thought her office didn't need it, but she did have the one instance when she would have been able to advance the investigation more quickly toward a resolution by being able to evidence a contract that the provider was unwilling to give her. She thinks it would be used rarely, if at all. It is a tool that she would use very carefully and infrequently. **{Tape : 1; Side : A; Approx. Time Counter : 15.1 - 16}**

Closing by Sponsor:

Sen. Waterman said that one of the most valuable services she saw from the Ombudsman's office this last interim was when they were in discussions with the department and providers and there were concerns about how the system was or wasn't working. The Ombudsman provided an independent voice that helped them figure out where the gaps and the problems were and what the challenges were that they were facing. She urged the committee's support of the bill. She suggested that **Rep. Esp** might carry the bill. {Tape : 1; Side : A; Approx. Time Counter : 16 - 17.2}

HEARING ON SB 52

Sponsor: SEN. GLENN ROUSH, SD 43, Cut Bank

Proponents: Mike Hankins, Pres., Associates of the VietNam Veterans of America, Chapter A626, Helena
Alan Armstrong, Associates of the VietNam Veterans of America, Chapter A626, Helena
Jim Jacobsen, Admin., Mt. Veterans Affairs Division
Steve Yeakel, Ex. Dir., Mt. Funeral Directors Assn.
Dan Antonietti, V.F.W.
Hal Manson, American Legion of Mt.
Al Smith, Mt. Trial Lawyers' Assn.

Opponents: None

Opening Statement by Sponsor:

SEN. GLENN ROUSH, SD 43, Cut Bank, said that SB 52 came from an interim committee, a state administration, public retirement and veterans affairs committee, and also from the military and veterans' affairs subcommittee. The bill relates to a veterans' situation, and the title is "granting immunity to the mortuaries and veterans' service organizations of simple negligence in the interment of certain remains of military veterans." A veterans' organization brought the problem to the attention of the interim committee that across Montana there appears to be a number of cremated remains laying unclaimed in Montana mortuaries. Montana funeral directors are supportive of this bill. The bill only addresses veterans' remains. The precise number of unclaimed remains in the state is in question. One story that was relayed to the committee was that a couple had a child, were divorced, went their separate way, and many years later the child wondered what had happened to his father. He found out that his father had passed away, went to that location and looked for his remains, and found the cremated remains in storage at a mortuary. The bill

describes how unclaimed veterans' remains would be handled, addresses the liability of the mortuary for releasing the remains, and also the veterans' service organization that would claim the remains and give them a proper military burial. After the bill passed the Senate, an amendment was proposed regarding burying rather than scattering the remains, and burying them in a veterans' cemetery. The bill includes leaving the remains in a mortuary for 20 years, which is the way the bill started after the son had looked for his father's remains, although in the next session they might look at reducing the number of years and also covering everyone, rather than just veterans. There is a means in Montana counties for disposal of unclaimed remains at the county level, but how they want to do that varies within the county jurisdictions. This bill doesn't address that. Veterans groups support claiming remains and giving them a proper military burial.

EXHIBIT (huh50a04) {Tape : 1; Side : A; Approx. Time Counter : 17.2 - 24.8}

Proponents' Testimony:

Mike Hankins, Pres., Associates of the Viet Nam Veterans of America, Chapter A626, Helena, said he and the VVA Chapter A626 had originally proposed this bill to the interim committee, because one of their members had retrieved his uncle's remains and discovered at that time that there are innumerable veterans' remains in the mortuaries of this city and state that were never accorded the proper burial they deserved. There is no exact number as to how many cremains there are, but since the turn of the century, Montana's population has consistently consisted of 10 percent veterans. It is reasonable to assume that 10 percent of the cremains that remain in the mortuaries are veterans. There are probably 6,000 cremains in the mortuaries and various storing places in Montana, which would give a figure of 600, or 10 percent, for veterans, and that seems reasonable. Many veterans who returned home, especially from World War II, had contracted diseases on the battlefields for which there were no cures, and many of them passed away from a cause received in defense of the United States. To the veterans who made it home who are still alive and see pet cemeteries where people buried their dogs and cats, and yet remains of the men who gave their lives for this nation are stored in mortuaries in pasteboard containers, it's an insult to our flag, to our people, and to our nation itself. What they are asking for is very simple. Mortuaries have expressed that they would be delighted to be relieved of the responsibility of these cremains, but because of the contingent liability, if they were to release them with no release from the family, even though the family may long ago have discarded any notion of doing anything with them, there would be a liability issue. In this age of massive litigation, it would expose the mortuaries to a set of circumstances which they'd rather not

deal with. This bill would allow mortuaries to release the cremains to the veterans' organizations. They would specify at the time they take each individual set of remains from the mortuary, they would provide a signed document to the effect that all the fees incumbent upon the absolute disposal of the remains had been paid. Nobody would be out a dime. The veterans organizations themselves are willing to take responsibility for the costs involved. **{Tape : 1; Side : A; Approx. Time Counter : 24.8 - 30}**

Alan Armstrong, Associates of the VietNam Veterans of America, Chapter A626, Helena, said this bill began with him when his uncle died in 1981 and he assumed at the time that everything was taken care of. In 1993 he checked at Retz Funeral Home, found the remains still there, and was told that he wasn't the only one this happened to. They showed him the remains of over 100 people in storage there, in cardboard boxes. Mr. Armstrong took care of having a military burial for his uncle's remains and generated interest in proposing this bill. It isn't right for anyone's remains to be just left in a box on a shelf. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 1}**

Jim Jacobsen, Admin., Mt. Veterans Affairs Division, supports the bill. His division is responsible for the two state veterans' cemeteries, and the fee is \$150 to open and close the grave, \$95 for a suitable, commercial-grade vault to hold the cremains, and \$85 to set the stone that is provided free from the federal V.A. There are federal and state benefits that can assist with some of those costs, but there is a statute of limitations on when people can apply for those benefits. In these cases, the benefits may have already been applied for, received and used for other purposes, including to pay for the cremation. The maximum cost to bury anyone in the state veterans' cemeteries would be \$330. His statewide offices would be happy to assist the veterans' service organizations with the investigation in terms of the proper documents such as discharge papers and death certificates to find the unclaimed remains, as well as checking records to see if the benefits had been received. **{Tape : 1; Side : B; Approx. Time Counter : 1 - 6}**

Steve Yeakel, Ex. Dir., Mt. Funeral Directors Assn., said they support the bill. It is a noble gesture as an expression of civic duty on the parts of the veterans' service organizations. **{Tape : 1; Side : B; Approx. Time Counter : 6 - 7}**

Dan Antonietti, V.F.W., said he is a World War II veteran, and just received the national statistic that WW II veterans are passing away at the rate of 1,500 per day. The VFW supports this legislation. **{Tape : 1; Side : B; Approx. Time Counter : 7 - 7.6}**

Hal Manson, American Legion of Mt., said his organization is one of the veterans' organizations that will be involved in the action with regard to the cremains if the bill is passed. A lot of the small Legion posts, VFW and DAV posts, will not be able to do an awful lot of burying because of the costs. However, if they desire to do so, this bill relieves them of any liability with regard to family at a later date. He believes it is a very good thing for veterans' organizations to do if they can, if they have the money and the time. The American Legion supports the bill and strongly requests its passage.**{Tape : 1; Side : B; Approx. Time Counter : 7.6 - 10.3}**

Al Smith, Mt. Trial Lawyers' Assn., said they support the bill. It's kind of a lesson in liability. Number one, a number of their members wouldn't take a case where somebody was being sued for burying a veteran. Number two, the bill sets up the things the mortuary needs to do before they can go forward with this, which would be what simple liability is anyway. So, in essence, the bill really isn't granting any immunity. They do support the concept. This is what is necessary in order for these veterans to get the proper burial they deserve.**{Tape : 1; Side : B; Approx. Time Counter : 10.3 - 13.6}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Noennig asked **Steve Yeakel** what had happened here, and isn't there historically some kind of an agreement between the people who have requested the cremation and the funeral home with respect to what's to be done with remains. Mr. Yeakel said not in all cases. When that is a part of the arrangements, the funeral homes do take care of it. In many instances, the family claims the remains for interment, and there is no real stipulation for the funeral home to dispose of those remains. **Rep. Noennig** asked why someone would request cremation without making any arrangement, formal or informal, regarding what happens next. **Mr. Yeakel** said there are lots of reasons that this occurs. In lots of cases, there is major or minor family dysfunction, there has been disagreement about whether to cremate the remains or not, there's some level of friction within the family, or financial or geographic circumstance that keeps the family from being able to conclude the arrangement and pick up the remains. The informal surveying that they've done doesn't indicate the presence of 6,000 of these remains around the state. Cremation has become a more popular means of disposition only more recently, and they're guessing that the total number of remains in Montana would be more in the 1,000 category. When they

ask specifically about the number of veterans' remains, they're looking more in the vicinity of perhaps 200 or so. Rep. Noennig asked if there is a change in policy from this date forward so that this would be handled differently from now on, or a different approach that funeral directors are taking now. Mr. Yeakel said not necessarily. This bill is a help in that some of the oldest remains that can be identified as veterans will reach an appropriate disposition and memorialization. Funeral homes across the state vary widely in their approaches. Some own cemeteries that have niches where they can put unclaimed remains. Others abide strictly to statute that says after 90 days the funeral home may dispose as they will, and others just hold onto the remains in the hope that they will be claimed. As part of the funeral service law, there is the opportunity to dispose of the remains after 90 days, but the law itself has never been tested. He thinks that funeral directors in most cases would all have a story to tell about their knowledge of attempts to do that, and a few months later they're contacted by a family member and then there are problems. There's what the funeral directors are legally able to do, and then there's what they are morally called to do.

Rep. Noennig said if there is a 20 year period, and there's a 90-day provision anyway, why is there this concern about liability and have there been any cases, alleged cases or suits that someone would have brought? **Mr. Yeakel** said that as with any small business, threat of litigation is a constant concern. He isn't personally able to relate any cases. This is not a major problem, but an issue that has been problematic over the years for funeral directors. The veterans are bringing forth an opportunity to help resolve a portion of that problem, and the funeral directors are supportive of that effort. **Rep. Noennig** said that this seems like a good intent but he doesn't know if immunity is really needed, and he wondered if **Mr. Yeakel** had a good sense for that. **Mr. Yeakel** said he doesn't have a finite sense of that but has a very tangible sense of that from working with the funeral service community. **{Tape : 1; Side : B; Approx. Time Counter : 13.6 - 21.6}**

Closing by Sponsor:

Sen. Roush said the questions raised had also been raised during the Senate committee hearing. The 20-year figure was arrived at because of the incident relayed to the committee. They decided to leave it at 20 years initially. He said his community's funeral home had been sold by the person who had owned it for 60 years, and the new owners contacted him regarding this bill. They told him they would not accept the unclaimed remains. They thought this bill was a good idea. **Sen. Roush** thought it important to support the veterans organizations in this effort, and the Mt. Funeral Directors Assn. has pledged their cooperation. He asked for the

committee's concurrence in the bill. **Rep. Laszloffy** will carry the bill. **{Tape : 1; Side : B; Approx. Time Counter : 21.6 - 27.2}**

HEARING ON SB 108

Sponsor: SEN. EVE FRANKLIN, SD 21, Great Falls

Proponents: Ed Amberg, Administrator, Mt. St. Hospital, Warm Springs
Gene Haire, Ex. Dir., Mental Disabilities Bd. of Visitors
Bonnie Adee, Mental Health Ombudsman
Sami Butler, Mt. Nurses Assn.
Erin McGowan, Mt. Council of Community Mental Health Centers
Al Davis, Mental Health Assn. of Montana

Opponents: None

Opening Statement by Sponsor:

SEN. EVE FRANKLIN, SD 21, Great Falls, said that SB 108 was requested by the Legislative Finance Committee. The overarching issue that the subcommittee on mental health issues looked at in HJR 35 was what some of the barrier are for consumers of mental health services in accessing care. A number of things were identified, and two are dealt with in this bill. One is on page 2, line 21, which would add that a "professional person," in addition to being a medical doctor, may also be an advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing. A professional person is given this designation by virtue of having filled out some content paperwork as to their work background in mental health and having passed an exam that is offered by the Dept. of Public Health & Human Services about state law. This allows them to have a formal relationship with the State Hospital that allows them to then be involved in the civil commitment process. These folks take this exam and fill out this paperwork, and a whole host of people can become professional persons, but physicians are exempt and this bill would also exempt APRNs from the whole paperwork process. It is an extension of the current scope of practice. It is something that APRNs do and is a piece of the statute that will be, to a greater degree, congruent with what APRNs currently do. On page 3 of the bill, language relates to the state hospital, which employs a number of psychiatrists. They are interested in also employing APRNs. They are not explicitly prohibited from hiring them, but there would be greater comfort to have it statutorily in the law that governs

their practice. Right now there are six physician slots that can be filled by psychiatrists. It is difficult to recruit professional health care folks and psychiatric personnel to the state. The state hospital often has to make a choice to have in locum tenens, or temporary, positions, so they have looked at what the tradeoffs are that there may be if one or two of those slots are filled with APRNs who would be stable, have prescriptive authority and the clinical background necessary to do the work rather than hiring physicians who may be transient and who may not always add to the fabric or permanency of the institution. **{Tape : 1; Side : B; Approx. Time Counter : 27.2 - 28.7} {Tape : 2; Side : A; Approx. Time Counter : 0 - 3.4}**

Proponents' Testimony:

Ed Amberg, Administrator, Mt. State Hospital, Warm Springs, said that this bill is very important for their facility and other mental health facilities in the state. It will improve access to care, or at least clarify what that access should be. The bill will clearly permit advanced practice registered nurses to be employed in mental health facilities and practice within the scope of their license. Right now there is a state law that has defined how they can practice, but there is another provision in the mental health statutes that states the only person who can prescribe medication to a person in a mental health facility is a physician. That needs to be changed in this day and age, and this is what the bill will do. **{Tape : 2; Side : A; Approx. Time Counter : 3.4 - 6.4}**

Gene Haire, Ex. Dir., Mental Disabilities Board of Visitors, said they support the bill, primarily because it expands access to health care services for people with mental illnesses in Montana, in particular at Montana State Hospital. **{Tape : 2; Side : A; Approx. Time Counter : 6.4 - 7.4}**

Bonnie Adee, Mental Health Ombudsman, said she is reflecting support for this bill from those consumers and family members that she has listened to. There really is a need for greater access to psychiatric care across the state and at the State Hospital. To have another practitioner able to do the prescribing and provide psychiatric care will help to address a real need. The times that she has heard from individuals who have had care from an APRN, their experience has been positive. This is not necessarily statistically valid, but, on their behalf, she wanted to affirm that it is a very positive, useful relationship, patient to practitioner, to have an APRN doing psychiatric care. **{Tape : 2; Side : A; Approx. Time Counter : 7.4 - 9.7}**

Sami Butler, Mt. Nurses Assn., said they support the bill. APRNs with a clinical specialty in psychiatric mental health have advanced education and training to care for individuals with various mental illnesses. They have the knowledge base to assess, to diagnose, to prioritize, and, with prescriptive authority, to prescribe and monitor psychopharmacological treatments for individuals with complex psychiatric problems. They're clearly qualified to provide the kind of consistent, compassionate care needed to treat mental health in our state. There is a critical shortage of qualified mental health professionals in Montana. We need to recognize the resources that we have here and optimize the use of these qualified nurses to the fullest extent of their education and their clinical expertise. This bill is a step in providing quality, cost-effective psychiatric care to individuals in mental health facilities. *{Tape : 2; Side : A; Approx. Time Counter : 9.7 - 10.2}*

Erin McGowan, Mt. Council of Community Mental Health Centers, said that APRNs are highly in need at the four regional community mental health centers as well as at the State Hospital. They employ them as often and use them as much as they can, as they are highly valuable. They support this bill. *{Tape : 2; Side : A; Approx. Time Counter : 10.2 - 10.8}*

Al Davis, Mental Health Assn. of Montana, said his organization strongly supports this bill. *{Tape : 2; Side : A; Approx. Time Counter : 10.8 - 11.2}*

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Newman asked **Sami Butler** to give a thumbnail sketch of the training of APRNs. **Ms. Butler** said they have a master's degree and then they are certified nationally by their board in the specialty of psychiatric mental health. **Rep. Newman** asked if the nurses' board certification is much like that in the physicians' field, that they actually have to sit for a particular board test. **Ms. Butler** said they do have to sit for a test to be certified by the board on the national level. **Rep. Newman** asked how many APRNs are out there and available. **Ms. Butler** said she can't quote the exact number but would get it for him. She believes there are 35 in the state.

Rep. Facey asked **Mr. Amberg** what the salary is for a psychiatrist. **Mr. Amberg** said if they could hire a psychiatrist on their staff,

the starting salary is \$120,000 per year, \$125,000 per year if they are board certified. A locums, or temporary psychiatrist, costs the State Hospital approximately \$240,000 per year. **Rep. Facey** asked **Mr. Amberg** how much APRN clinical specialists would be paid. **Mr. Amberg** said \$65,000. **Rep. Facey** said in his community a mental health center would admit a patient to their hospital, but the center would not be responsible for treating the patient once they get to the hospital and they pass the costs on to the hospital. The psychiatrists are on call so have to deliver the service. He asked if the bill is passed, could an APRN clinical specialist take that responsibility. **Sen. Franklin** said he was talking about an interplay of a couple of different agencies and different parameters. Clinically within the scope of practice, an APRN could follow a patient into the hospital. It depends on whether that hospital gives attending privileges to that APRN, and that's different in different cities.

Rep. Esp asked the sponsor about section 2 where it talks about advanced practice registered nurse but doesn't say that they have to have a clinical specialty, and he wondered if that was intentional. **Sen. Franklin** said it is, and the definition on page 2 of the bill qualifies the references to an APRN on the following page. **Rep. Esp** asked if this section of the law only applied to the State Hospital at Warm Springs or to any hospital in Montana. **Sen. Franklin** said it refers to the statute that governs the practice of the State Hospital. There is nothing that precludes any hospital in the state from hiring and employing an APRN within scope of practice. **Rep. Esp** redirected his question to **Mr. Amberg**, asking if this section referred only to privileges at the Montana State Hospital, or could an APRN with a psychiatric specialty practice in any hospital in Montana. **Mr. Amberg** said number 8 under definitions states the definition of a mental health facility, which means a public hospital or licensed private hospital that is equipped and staffed to provide treatment, so technically right now an APRN could not prescribe medications but could provide other services in a mental health facility. There are other provisions of statute governing health care that do allow them to practice, so they're trying to clean up this conflict. The mental health statutes do apply to any mental health facilities. **Rep. Esp** asked **Mr. Amberg** if there is such a thing as a physician's assistant with a psychiatric specialty. **Mr. Amberg** said there are physicians' assistants, but he isn't sure about the psychiatric specialty. **Rep. Esp** asked if there would be any advantage to include them in this bill if there were such a thing. **Mr. Amberg** said this discussion was held in the Senate, and his understanding was that physicians' assistants have to practice under the supervision of a physician already, so he believes that they are already covered under the statute although they're not spelled out specifically. **Rep. Esp** asked **Sami Butler** about her statement that there are 35 nurse practitioners with this

speciality in the state, and she corrected her statement to say that there are 35 clinical nurse specialists and out of that, she is thinking that there are 7 clinical nurse specialists with psychiatric specialties.

Rep. Noennig asked for clarification of "professional person." **Sen. Franklin** said it is a role that is defined by DPHHS that allows a health care professional or mental health professional to have a formal relationship with the State Hospital and within the civil commitment process, so they can be involved in an assessment and commitment process. In order to do that, the person applies to DPHHS and goes through a set process. **Rep. Noennig** asked if the educational requirements to be an APRN and be able to dispense medication should be added to statute. **Sen. Franklin** said this is done in rule by the Board of Nursing.

Rep. Schmidt asked **Sami Butler** to clarify her statement that there were 7 clinical nurse specialists in the state and **Ms. Butler** said they are clinical nurse specialists with psychiatric specialties. **Rep. Schmidt** asked if that was the same as an advanced practice registered nurse. **Ms. Butler** said APRN is a term that incorporates four types of advanced practice nurses: nurse practitioners, certified nurse mid-wives, clinical nurse specialists, which is what we are talking about here, and certified registered nurse anesthetists. The national certification only grants the designation of clinical nurse specialist after the person has passed a test and has a master's degree. That's why with clinical nurse specialists, the minimum is a master's degree, because they can't get certified nationally or even apply for certification unless they have a master's. **Rep. Schmidt** asked if the APRN we're talking about is the same as the clinical nurse specialist. **Ms. Butler** said APRN is the catch-all term, and one of those categories is a clinical nurse specialist. An APRN can have a clinical nurse specialty in geriatrics, or pediatrics, or critical care, but these approximately 7 in the state that she had referred to have had their certification in the psychiatric clinical nurse specialty. **Rep. Schmidt** asked for clarification if this is not just for the State Hospital but could be used in other arenas, and **Ms. Butler** said also in other mental health facilities as defined in the bill. **Rep. Schmidt** asked if these facilities are all listed in the bill and **Ms. Butler** said she believed they were.

Rep. Brown said in order for APRNs to prescribe drugs, they would have to have a diagnosis, and he asked **Mr. Amberg** if we are asking the APRNs with this specialty to also diagnose the problems. **Mr. Amberg** said in the State Hospital they have a privileging committee that decides who is qualified to do what types of tests, and that committee would look at the APRNs' qualifications for the job and

what types of things they'd need to do and what level of supervision they'd need. **Rep. Brown** said the committee didn't hear anything from physicians or psychiatrists, and he asked the sponsor if there was any opposition to the bill from them. **Sen. Franklin** said the Mt. Medical Assn. supported the bill in the Senate, and there has been no opposition. She said that under scope of practice in current law, master's prepared clinicians can assess, diagnose and treat patients.

Rep. Noennig asked **Sami Butler** for clarification of the statutory authority for non-physicians, and she said she would find it for him. **Rep. Facey** asked **Bonnie Ade**e if clients who use the system want a bill like this, and she said that to the best of her knowledge, she would say yes. **Rep. Facey** asked **Al Davis** how the users of the system feel about this bill, and he said many members of the Mental Health Assn. are consumers and they felt this bill would improve mental health services.

Chairman Thomas asked the sponsor if there are any restrictions as to reimbursement for these services, such as whether they have to be in a hospital setting. **Sen. Franklin** said this is a sticky wicket because there has been a long history of negotiations between private insurers and what they will or won't cover for direct service. These individuals who have an independent practice can be reimbursed by Medicaid, Medicare and private insurance. *{Tape : 2; Side : A; Approx. Time Counter : 11.2 - 30} {Tape : 2; Side : B; Approx. Time Counter : 0 - 3.2}*

Closing by Sponsor:

Sen. Franklin said she would also have other APRN bills before this committee, so wanted to clarify a couple of issues, including that of a professional person. The reason APRNs are put in this statute is so they can be exempt from the paperwork process through DPHHS that also exempts physicians. There are a number of other individuals who apply for the professional person status, including social workers, some of whom don't have all the qualifications but they go through the DPHHS process and are designated as professional persons to do those commitments. This bill is asking for the APRNs who have the level of ability to diagnose and assess psychiatric problems to be exempt from that paperwork. The idea is if you have a patient in need of care, if you are a county attorney or somebody in a hospital setting and you want to get your patient cared for in the state hospital, you want as little bureaucracy as possible and want to use the right person to do the assessment and get the patient into treatment. She will visit with Rep. Noennig in an attempt to clarify points raised regarding the bill not qualifying "clinical specialist in psychiatry." She would not want to put the issue of prescriptive authority in statute. The Board of

Nursing has a very specific process, and they can then change by rule as practice changes and be sensitive to that. She hopes the committee will look favorably upon this bill in the spirit of providing better access to care for people who are qualified to do this. **Rep. Schmidt** will carry the bill in the House. **{Tape : 2; Side : B; Approx. Time Counter : 3.2 - 7.8}**

ADJOURNMENT

Adjournment: 5:00 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO/JB

Jan Brown transcribed these minutes

EXHIBIT (huh50aad)